



VIDYUT OMBUDSMAN FOR THE STATE OF TELANGANA

First Floor 33/11 kV substation, Hyderabad Boats Club Lane
Lumbini Park, Hyderabad - 500 063

:: Present:: R. DAMODAR

Thursday, the Twenty Sixth Day of May 2016

Appeal No. 17 of 2016

Preferred against Order Dt. 23-12-2015 of CGRF In

CG.No: 342/2015 of Hyderabad North Circle

Between

University Filling Station (BPCL), Represented by Sri. Satyanarayana,
Tarnaka Junction, Secunderabad - 500 017. Cell No. 94404 29962.

... Appellant

AND

1. The AE/OP/Lalaguda/TSSPDCL/Secunderabad.
2. The ADE/OP/P.R.Nagar/TSSPDCL/Secunderabad.
3. The DE/OP/Paradise/TSSPDCL/Secunderabad.
4. The SE/OP/Hyderabad North Circle/TSSPDCL/Hyderabad.

...

Respondents

The above appeal filed on 22.02.2016, coming up for hearing before the Vidyut Ombudsman, Telangana State on 19.05.2016 at Hyderabad in the presence of Sri.G.A. Ravinder - on behalf of the Appellant and Sri. R. Ananda Reddy - ADE/OP/PR Nagar, for the Respondents and having considered the record and submissions of both the parties, the Vidyut Ombudsman passed the following;

AWARD

The Appellant is a BPCL filling station with Service Connection No. VZ 006457. The concerned AE inspected the service and issued a notice for installation of a 100KVA DTR to meet the load, by paying the development charges and the security deposit. The Appellant protested stating that the connected load was below 50KW with a CT meter and there was no need for a separate DTR. The AE/1st Respondent estimated and sent an intimation to pay DTR charges of Rs 104,500/- Security Deposit

of Rs 46,000/- with material, labour and execution of work and ACD of 26,000/- totalling Rs 1,76,500/-, which were paid by the Appellant on 4th December,2000. So far, the 1st Respondent has neither taken up the work, nor set up the DTR.

2. The Appellant claimed that in the meanwhile, the 2nd Respondent ADE/OP/PR Nagar sent a notice dt. 02.06.2011 demanding payment of Rs 36,000/- towards development charges and Rs 14,400/- towards Security Deposit and again on 21.6.2014 he demanded an amount of Rs 19,200/- towards additional deposit and Rs 28,800/- towards development charges. The Appellant claimed that since he had already paid the required amounts for the present connected load, the electricity officials still have been harassing him demanding further payment. He lodged a complaint with CGRF demanding installation of a separate DTR, for which the amounts were already paid and cancellation the of demand notices.

3. The 2nd Respondent ADE/O/PR NAGAR through his letter dt.12.11.2015 stated that during inspection of the service, the enhanced load from 3KW to 16KW was discovered and still the Appellant had further additional load of 24 KW totalling 40 KW. He also found that the Appellant has paid Rs 1,04,500/- by way of DD No. 1821 dt. 04.12.2001 towards service line charges, Rs 46,000/- towards the Security Deposit and these were not regularised so far. He further stated that the existing 100KVA DTR located nearby can cater to the load of the Appellant and thus it was so considered. He further stated that a proposal for regularisation of the additional load of the Appellant by using the amount already paid and adjusting the balance amount towards the CC charges has been made.

4. The Appellant, in view of non erection of a new DTR, sought refund of service line charges, transformer cost paid, at an early date. The 2nd Respondent/ADE/O/PR Nagar stated that the Respondents have regularised the load of 40KW and the voltage was also found to be normal.

5. On consideration of the material on record and stand of each party, the CGRF passed order to the effect that “ The Respondents are directed to regularize the additional load from the date of availability of the funds paid by him and excess amounts available may be adjusted to the current consumption bills with an intimation to the Respondents on the action taken by them with a copy to the Forum.”

6. Aggrieved and not satisfied with the impugned orders, the Appellant preferred the present Appeal demanding bank interest from 4.2.2001 to 29.2.2016 i.e for 15 years on the amount of Rs 1,04,500/- after adjusting the future bills.

7. In this Appeal, the 1st Respondent filed a report dt. 28.2.2016 stating that the connected load has been regularised from 3KW to 40KW and that the 2nd Respondent sent a letter to the AAO/ERO-X, Sitaphalmandi vide his letter dt.22.6.2016 towards adjustment of excess payment of Rs 1,04,500/- paid by the Appellant along with interest from 4.12.2001 till date. The 2nd Respondent through his letter dt.29.3.2016 submitted a work compliance report in this appeal stating that the connected load was regularised from 3KW to 40KW and out of the excess payment under service line charges Rs 1,04,500/-, an amount of Rs 94,050/- was adjusted into the service connection account of the Appellant which is 10% less than the service line charges paid. He submitted a copy of letter of the AAO/ERO in support of his claim. The AAO addressed a letter dt.29.3.2016 to the 2nd Respondent stating that as per Clauses 5.3.2.1 and 5.3.3 of GTCS, an amount of Rs 94,050/- representing 10% less on Rs 1,04,500/- the cost of sanctioned estimate, was adjusted towards the account of the Appellant. The 2nd Respondent through a separate letter dt.31.3.2016 reiterated what the AAO/ERO stated.

8. The Appellant through a letter dt. 18.4.2016 stated that when there was no need for a fresh DTR in view of the existing 100KVA DTR nearby, the proposal for service line charges was made only to harass him. The Appellant further stated that he has neither applied for fixing of the service line nor has withdrawn it and therefore, Clause 5.3.2.1 and Clause 5.3.3 of GTCS are not applicable to his case. He demanded refund of the amount with interest, in view of the negligence and lapses of the officials of the DISCOM and the harassment meted out to him.

9. On consideration of the material on record and the arguments, the following issues arise for determination:

- i. Whether the Appellant is entitled to refund of Rs 1,04,500/- representing deposit
of service line charges in the year 2001 with interest?
- ii. Whether Clauses 5.3.2.1 and 5.3.3 of GTCS apply to the present dispute?
- iii. Whether the impugned orders are found to be inadequate and do not answer the issues raised?

ISSUES 1 to 3

10. It is clear from the record that the demanded amounts were deposited by the Appellant towards service line charges Rs 1,04,500/-, Security Deposit 46,000/- and ACD Rs 26,000/-. This was around the year 2001. During the inspection by the 1st Respondent, the total connected load was found as 40KW against the initial sanctioned load of 3KW. On being served with notice to regularise the excess load, as demanded, the Appellant deposited Rs 1,04,500/- (including the cost of DTR) and Rs 46,000/- towards the security deposit. Neither the DTR was erected nor the load of 40 KW was regularised in the ledger and only now as per the EBS, the sanctioned load to the service connection has been found to be 40KW.

11. When the Appellant insisted on erecting the DTR, the Respondents, based on field conditions and inspection, came to a conclusion that the existing nearby underloaded 100KVA DTR is sufficient to cater to the 40KW load of the Appellant and therefore, claimed that there is no need for erection of a new DTR. Thus the need for refund of the service line charges including the cost of DTR came to be the point for the determination.

12. The Appellant, in view of the frequent demands for payment and non regularisation of the load and non erection of DTR, felt that the Respondents have been harassing him for no reason. The frequent demands for payment as seen from the record and failure on the part of the Respondents to fix DTR and regularise the excess load till recently, showing laxity for a period of over 15 years after receipt of the required amount, is not a normal example we see, but it is a callous and uncaring attitude towards the consumers. Why it took 15 years to decide and refund of the service line charges including the cost of DTR and why the excess load was not regularised for a period of 15 years, is really giving strength to the allegation of the Appellant that it was harassed to no end by the successive officials of the DISCOM.

13. The Respondents could only say that the service line charges of Rs 1,04,500/- after deducting 10% of SLC charges is as per the Clauses 5.3.2.1 and 5.3.3 of GTCS.

14. The Respondents are taking shelter under Clause 5.3.2.1 for retaining 10% of the cost of the sanctioned scheme from out of the total amount deposited towards the service linecharges. Clause 5.3.2.1 of GTCS is as follows:

“The Service line charges payable by the consumers for release of new connection/additional load under both LT and HT categories shall be levied at the rates notified by the company in accordance with regulations/orders issued by the Commission from time to time. These

charges shall be paid by the consumer in advance failing which the work for extension of supply shall not be taken up. These charges are not refundable.

Provided that where any applicant withdraws his requisition before the Company takes up the work for erection of the service line, the Company may refund the amount paid by the consumer after deducting 10% of the cost of the sanctioned scheme towards establishment and general charges. No interest shall be payable on the amount so refunded.”

15. Similarly regarding development charges mentioned under Clause 5.3.3, the provision for refund is mentioned and clause 5.3.3.1 is reproduced for the purpose

of clarity:

5.3.3.1. “The amounts payable by the consumer towards development charges of new connection/additional load under LT and HT categories shall be at the rates notified by the Company with the approval of the Commission from time to time. The Consumer shall pay these charges in advance, failing which the works for extension of supply shall not be taken up. These charges are non-refundable.

Provided that where any applicant withdraws his requisition before the Company takes up the works of the sanctioned scheme, the Company may refund the development charges paid by him without any interest. However where the service line charges are not sufficient to cover the 10% of the cost of the sanctioned scheme, mentioned in clause 5.3.2.1 above, the balance amount of 10% of the cost of the sanctioned scheme shall be deducted from the development charges paid by him.”

16. It is significant to note that the Respondents are taking recourse to application of Clause 5.3.2.1 and also Clause 5.3.3.1 of GTCS to deny 10% of the amount due and also interest on the amount on the pretext that the amount paid by the Appellant is now being demanded back. On the other hand, the Appellant, as per the record, has not withdrawn the request at any time for fixing of DTR and other required material, to apply these two clauses of GTCS. As late as 1.10.2015, the Appellant in his complaint before CGRF, has specifically sought relief in the following words:

“ With the above facts expressed I request the authority to call upon the concerned officials and ensure for and enquiry in my presence. On the above problem I also request to pass the order for executing installation of Transformer instantly as the tenure of 15 years already been delayed for their negligence and ignorance of the concerned officials.”

This prayer at the initial stage of the complaint before CGRF clearly fixes responsibility on the officials of the DISCOM for negligence in attending to the grievance of the Appellant 15 years back and also frequently demanding deposits on the threat of disconnection or the other, without first installing DTR. The Appellant, it is clear, has not sought withdrawal of his requisition for DTR at any stage of the case for the last 15 years and the claim of the Respondents for retaining 10% of the cost of the sanctioned scheme under clause 5.3.2.1 and 5.3.3.1 of GTCS on the ground that the Appellant had withdrawn his request does not stand scrutiny and it is found to be not supported by statutory backing.

17. The service line charges deposited by the Appellant were not attended to by the Respondents. The Appellant has not withdrawn his requisition for erection of DTR and other connected material, to meet the excess demand of power. It was not the wish of the Appellant for installation of DTR, but it was the demand made by the Respondents in the year 2001 pursuant to which the Appellant paid the required amounts for carrying out the erection of the service line and DTR, which was not carried out. Therefore, the Respondents, taking shelter under the false pretext of withdrawal of requisition by the Appellant, cannot refuse to refund the service line charges deposited by the Appellant . The Respondents have to also pay interest on the amount so kept lying unutilised with them. When the consumer has not withdrawn his requisition for installation of DTR and service line, the proviso to Clause 5.3.2.1 and Clause 5.3.3.1 are not applicable.

18. The CGRF, through the impugned orders, has not decided on the inaction of the Respondents for 15 years and has not taken any stand on the demand of interest made by the Appellant, in the light of proviso to Clauses 5.3.2.1 and Clauses 5.3.3.1 of GTCS. This issue has been avoided by the CGRF, which makes the impugned order incomplete and not satisfactory.

19. In view of the discussion supra, the Appellant is found entitled to refund of total amount of Rs 1,04,500/- with simple interest @ 6% P.A from 4.12.2001 till date. The issues 1 to 3 are answered accordingly.

20. In the result , the Appeal is allowed finding that:

a. the Appellant is entitled to refund of Rs 1,04,500/- along with simple interest @ 6% PA from 4.12.2001 till date, which shall be adjusted in the future CC bills.

b. the impugned orders are found lacking in clarity about the relief and it is accordingly partly confirmed.

21. This award shall be implemented within 15 days of its receipt at the risk of penalties as indicated in clauses 3.38, 3.39, and 3.42 of the Regulation No. 3/2015 of TSERC.

Typed by CCO, Corrected, Signed and Pronounced by me on this the 26th day of May, 2016.

Sd/-

VIDYUT OMBUDSMAN

1. University Filling Station (BPCL), Represented by Sri. Satyanarayana, Tarnaka Junction, Secunderabad - 500 017. Cell No. 94404 29962..
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Copy to:

6. The Chairperson, CGRF(Greater Hyderabad Area) , TSSPDCL, GTS Colony, Vengal Rao Nagar, Erragadda,Hyderabad.

7. The Secretary, TSERC, 5th Floor, Singareni Bhavan, Red Hills, Hyderabad.